

RESOLUTION OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION DELEGATING TO THE SPECIAL AIR PERMIT APPEALS COMMITTEE THE AUTHORITY GRANTED THE COMMISSION TO MAKE THE FINAL AGENCY DECISION ON AIR PERMIT AND ENFORCEMENT CONTESTED CASES COMING BEFORE THE COMMITTEE.

WHEREAS, The Environmental Management Commission met on the 10th day of January, 2013, after due notice and in formal session in Raleigh, North Carolina; and

WHEREAS, The Environmental Management Commission is the official air pollution control agency for the State and, pursuant to N.C.G.S. § 143-211, is delegated to act in local administration of all federally mandated programs covered by the federal Clean Air Act; and

WHEREAS, the Environmental Management Commission is authorized, pursuant to N.C.G.S. § 143B-282.1 with respect to matters within its jurisdiction, to exercise quasi-judicial powers in accordance with the provisions of the Administrative Procedure Act; and

WHEREAS, the Environmental Management Commission, pursuant to N.C.G.S. § 143-215.3(a)(4), is authorized to delegate such powers of the Commission as the Commission deems necessary to one or more of its members; and

WHEREAS, Section 128 of the federal Clean Air Act imposes conflict of interest requirements for members of State Boards and Commissions to assure that decisions to issue permits or enforcement orders are not influenced by private interests of individual decision makers by requiring that a majority of the members of the decision making body represent the public interest and do not derive any significant portion of their income from persons subject to such permits or orders; and

WHEREAS, to assure compliance with Section 128 of the Clean Air Act, the Chairman will exercise the authority provided by Article IX in the Commission's Bylaws and create the Special Air Permit Appeals Committee to be composed of a majority of members meeting the conflict of interest requirements of Section 128 for the purpose of exercising the Commission's quasi-judicial powers with respect to air permits and enforcement orders; and

WHEREAS, The Environmental Management Commission seeks to timely implement the provisions of Section 128 of the Clean Air Act;

NOW THEREFORE BE IT RESOLVED THAT the Environmental Management Commission hereby delegates to the Special Air Permit Appeals Committee the authority to exercise final agency decision authority with respect to permits and enforcement orders for control of sources of air pollution.

This the _____ day of January____, 2013.

Stephen T. Smith, Chairman